

Pursuant to due call and notice thereof a regular meeting of the Council in and for the City of Albany, Stearns County, Minnesota, was called to order by Mayor Tom Kasner at 6:30 o'clock in the evening on Wednesday, December 21, 2022, in the Council Room at 400 Railroad Avenue for the said City.

Other Council members present were: Councilors Keith Heitzman, John R. Harlander, Adam Rushmeyer, and Al Amdahl. None were absent for the meeting.

Other's present were: Tom Schneider, Clerk/Adm., Police Chief Ozzie Carbajal, Joseph Mergen, Public Works Supervisor, Derek Stommes, Patrol Officer, Tim Hennagir, Staff Writer, the Star Post, Kris Schiffler, Lee Mergen, and Ryan Spainer, owners of Shady's Hometown Tavern and Events Center, 451 Railroad Avenue. Susan Dege, City Attorney with the firm of Jovanovich, Dege, & Achmann, PA, St. Cloud, MN, attended the meeting via ZOOM, a video and audio communication platform.

The council recited the Pledge of Allegiance.

The council took notice of approval of payment of bills. After due discussion, a motion was made by Keith Heitzman and seconded by Al Amdahl to approve/authorize payroll (3454-3503), electronic payments (900070-900075), transfers, and the payment of the following bills: Check Numbers 72354 to 72385. All voted for the motion and it carried.

Mayor Tom Kasner called for any corrections or additions to the minutes of the regular meeting of the council held on December 7th and hearing none declared them approved.

Open forum/public comments: none

Mayor Tom Kasner opened the hearing before the council to determine potential liquor license penalties regarding alleged ordinance violations for a male dance revue event that was held at Shady's Hometown Tavern and Event Center. Ms. Dege appeared before the council to inform the council Mr. Schiffler was advised by the City Administrator, Police Chief and Assistant City Attorney, that the male dance revue event held on November 4<sup>th</sup> would be in violation of the following: 1) Ordinance 66-Adult Uses, requires an adult establishment to obtain a license from the City for an Adult Cabaret, and 2) Ordinance 60, Liquor which prohibits liquor licensees from allowing performance of sexual acts or acts which simulate sexual acts within a licenses premises. Ms. Dege also noted as a result of a violation of the liquor ordinance, the council may suspend or revoke the liquor license and may impose a civil penalty in addition to the license revocation or suspension including the city recovering the hearing costs from the licensee as well. Mr. Schiffler appeared before the council to inform the council his attorney emailed the assistant city attorney on October 21<sup>st</sup> disputing the opinion of the assistant city attorney that the male dance event was sexual in nature and having heard no response or objection that he could not hold the event, he was comfortable in moving forward with the event. Ms. Dege informed the council their firm did not receive an email. Ms. Dege also informed the council the police department has an open active investigation related to an alleged sexual assault that occurred at the event. Ms. Dege recommended to the council Shady's Hometown Tavern and Event Center receive a 10-day suspension specifically to include December 31<sup>st</sup>, ordered to pay a civil penalty of not less than \$1,000 and be reimbursed for the costs incurred by the city for attorney fees regarding this matter. Lee Mergen appeared before the council to request the hearing be tabled until their attorney has a chance to discuss the proposed penalties and violations of the ordinance. Lee Mergen informed the council on any given weekend you can witness customers at liquor establishments throughout the area dancing to music in a manner that simulates sex and questioned if the language in the ordinance should be amended. Lee Mergen also informed the council he is not in favor of the severe penalties recommended by the city attorney. Ms. Dege noted she is satisfied with the process. Mayor Tom Kasner hearing no further comments or discussion, concluded the hearing. After due discussion, a motion was made by Adam Rushmeyer and seconded by Al Amdahl to approve the following penalties regarding ordinance violations for the male dance revue event held at Shady's Hometown Tavern and Event Center:

- 10-day suspension specifically to include December 31<sup>st</sup>

- ordered to pay a civil penalty of not less than \$1,000
- city to be reimbursed for the costs incurred by the city for attorney fees regarding this matter.

All voted for the motion and it carried.

Mr. Schneider presented to the council Payment Voucher No. 7 for the 2022 Capital Improvement Project. Mr. Schneider noted the request for payment includes street construction items and a reduction in the project retainage to 2.5%. After due discussion and upon recommendation from the city engineer, a motion was made by John R. Harlander and seconded by Keith Heitzman to approve Payment Voucher No. 7 to Breitbach Construction Company, Elrosa, MN, in the amount of \$112,723.13. All voted for the motion and it carried.

Councilor Keith Heitzman, Albany Golf Club Liaison, presented to the council the Albany Golf Club’s checkbook register. After due discussion, a motion was made by Keith Heitzman and seconded by Adam Rushmeyer to approve electronic payments, transfers, and the payment of the following: checks 40356-40371. Voting for the motion were Councilors Keith Heitzman, Al Amdahl, John R. Harlander, and Adam Rushmeyer, and none voted against. Mayor Tom Kasner abstained and the motion carried.

Mr. Mergen presented to the council a proposed one-year Agreement (2023) between SafeAssure Consultants, Inc., Willmar, MN, and the City of Albany. Mr. Mergen informed the council safety consultants provide quarterly safety training and loss control practices including OSHA compliance review. Mr. Mergen noted the annual cost for the consulting services is \$4,235 and recommended approval. After due discussion, a motion was made by Mayor Tom Kasner and seconded by John R. Harlander to approve the said Agreement. All voted for the motion and it carried.

Mr. Mergen also presented to the council a Sanitary Survey Report for the Albany Public Water System completed on December 8<sup>th</sup> by the Mn Department of Health (MDH). Mr. Mergen noted MDH recommended the city consider in the future adding a mixer in the water tower to improve chorine distribution in the waster supply. Mr. Mergen noted the inspection went very well and there were no other irregularities in the operation of the water distribution system.

Mr. Schneider presented to the council Solid Waste Collection Services Request for Proposals (RFP) and noted a notice accepting proposals for municipal refuse, recycling, and yard waste collection was published in the local newspaper on December 21st. Mr. Schneider noted the contract period is three (3) years with the option for two one-year extensions. Mr. Schneider also noted the current refuse contract with Waste Management expires March 31, 2023. After due discussion, a motion was made by John R. Harlander and seconded by Al Amdahl to accept proposals for solid waste collection services by no later than 3:00 p.m. Wednesday, January 25, 2023. All voted for the motion and it carried.

Mr. Schneider also presented to the council the proposed 2022 levy, 2023 Budget, and the amount of property taxes the city proposes to collect to pay for the costs of services the city will provide in the year 2023. Mr. Schneider noted the truth and taxation public hearing was held on December 7<sup>th</sup>. After due discussion and careful consideration, a motion was made by Al Amdahl who introduced the following resolution and moved its adoption:

RESOLUTION 2022-38  
APPROVING THE 2022 TAX LEVY, COLLECTIBLE IN 2023  
Total Levy: \$1,320,424  
(General Government: \$828,924)  
(PIR Bonds debt service: \$423,500)  
(Tax Abatement: \$68,000)

The motion for the foregoing resolution was seconded by Adam Rushmeyer and after a full discussion thereon and upon a vote being taken thereon, the following voted in favor thereof: Mayor Tom Kasner, Councilors Al Amdahl, John R. Harlander, Adam Rushmeyer, and Keith Heitzman, and none voted

against the same whereupon the said resolution declared duly passed and adopted. The full text of the said resolution and 2023 Budget is on file at the office of the City Clerk/Administrator for public inspection during regular office hours.

The Council took notice of a LG230 MN Lawful Gambling application (bingo/raffle/pull tabs/paddlewheel) to be held March 23, 2023 submitted by the Albany Lions Club at Shady’s Hometown Tavern, 451 Railroad Avenue. After due discussion, a motion was made by Mayor Tom Kasner who introduced the following resolution and moved its adoption:

RESOLUTION 2022-39  
APPROVING LG230 MINNESOTA  
LAWFUL GAMBLING APPLICATION

The motion for the foregoing resolution was seconded by John R. Harlander and after a full discussion thereon and upon a vote being taken thereon, the following voted in favor thereof: Mayor Tom Kasner, Councilors Adam Rushmeyer, John R. Harlander, Al Amdahl, and Keith Heitzman, and none voted against the same; whereupon the said resolution was declared duly passed and adopted.

The council took notice of a proposed 2023 Agreement between Tri-County Action Program, Inc. and the city for transportation services in the year 2023. Mr. Schneider informed the council the service is available to all residents each week on Tuesday during the hours of 9:30 AM to 1:00 PM. Mr. Schneider also noted annual cost to the city is \$850. After due discussion, a motion was made by John R. Harlander and seconded by Keith Heitzman to authorize Mayor Tom Kasner to execute the said Agreement on behalf of the city. All voted for the motion and it carried.

The council took notice of the proposed 2023 Employee Personnel Policy. Mr. Schneider informed the council Susan Dege, the City Attorney, reviewed the said policy and made some minor changes. After due discussion, a motion was made by Keith Heitzman and seconded by John R. Harlander to approve the 2023 Employee Personnel Policy. All voted for the motion and it carried.

Mr. Schneider informed the council of the following individuals whose advisory board terms expire at the end of the year: 1) John R. Harlander, Albany Economic Development Authority (EDA) (5-year term), 2) Joseph Wedel, Planning Commission (5-year term), and 3) Sonja Hoffarth, three-year Park Board (3-year term). After due discussion, a motion was made by Al Amdahl and seconded by Adam Rushmeyer to reappoint the aforementioned individuals to the various advisory boards. All voted for the motion and it carried.

Mayor Tom Kasner presented the following proposed 2023 appointments:

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|--|-------------------------------------|
| Acting Mayor                             | John R. Harlander                   |
| Weed Inspector                           | Mayor Tom Kasner                    |
| Assistant Weed Inspector                 | Joseph Mergen                       |
| Auditor                                  | Schlenner Wenner Co.                |
| City Attorney                            | Jovanovich, Dege & Athmann, PA      |
| Emergency Management Director            | Ozzie Carbajal, Police Chief        |
| Assistant Emergency Management Directors | Gary Winkels                        |
| Community Education Liaison              | Al Amdahl                           |
| EDA Board members                        | John R. Harlander, Mayor Tom Kasner |
| Equipment Commissioner                   | Mayor Tom Kasner                    |
| Fire Department Liaison                  | Mayor Tom Kasner                    |
| Albany Golf Board Liaison                | Keith Heitzman                      |
| Health Officer                           | Stearns County Public Health        |
| Labor Commissioners                      | Keith Heitzman, Mayor Tom Kasner    |
| Official Depositors                      | Stearns Bank, Magnifi Financial     |
| Official Publication                     | Star Post                           |
| Park Board Liaison                       | Al Amdahl                           |

Planning Commission Liaison	Adam Rushmeyer
Police Commissioner	John R. Harlander
Street Commissioner	John R. Harlander
Utility Commissioner	Keith Heitzman
Township Liaison	John R. Harlander
Fire Department Relief Association Ex-Officio	Mayor Tom Kasner, Tom Schneider

After due discussion, a motion was made by Adam Rushmeyer and seconded by John R. Harlander to approve the aforementioned 2023 Mayor Appointments. All voted for the motion and it carried.

Mayor Tom Kasner announced the next regular council meeting for 6:30 o'clock in the evening on Wednesday, January 4, 2023, and adjourned the meeting at 7:25 PM.

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Tom Schneider  
Clerk/Adm.